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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONER

AZ CORP COMMISSION
DOCUMENT CONTROL

E-00000A-02-0051

E-00000A-01-0630

E-01933A-02-0069

E-01933A-98-0471

DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE ARIZONA
PUBLIC SERVICE COMPANY'S
REQUEST FOR VARIANCE OF
CERTAIN REQUIREMENTS OF A.A.C.
R14-2-1606.

SUBPOENA DUCES TECUM

THE ARIZONA CORPORATION COMMISSION TO:

Jack E. Davis
APS
400 North Fifth Street
Phoenix, AZ 85072

PURSUANT to Ariz. Const. Art. 15 § 4, A.R.S. §§ 40-241, 40-242, 40-244,
A.A.C. R14-3-101 and R14-3-109, and 16 A.R.S. Rules of Civil Procedures, Rules
30 and 45, you are hereby commanded to appear and give your testimony at the time
and place specified below.

YOU ARE COMMANDED to appear and produce any and all documents
pertaining to this matter, including, but not limited to, books, papers, documents,
tangible things, notes, correspondence, drafts and billing records and statements.

DATE AND TIME OF APPEARANCE
AND PRODUCTION:

March 25, 2002 at 9:30 a.m.

PLACE OF APPEARANCE
AND PRODUCTION:

Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, AZ 85012-2913

Arizona Corporation Commission

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DOCKETED BY

1 You have been subpoenaed by: Panda Gila River, L.P., whose attorney's
2 name, address and telephone number is:

3 C. Webb Crockett
4 Jay L. Shapiro
5 Fennemore Craig
6 3003 North Central, Suite 2600
7 Phoenix, AZ 85012
8 602-916-5357

9 Requests for reasonable accommodation for persons with disabilities must be
10 made to the division assigned to the case by parties at least 3 judicial days in advance
11 of a scheduled court proceeding.

12 YOU ARE HEREBY NOTIFIED THAT ANY FAILURE TO OBEY THIS
13 SUBPOENA WITHOUT ADEQUATE EXCUSE MAY BE DEEMED A
14 CONTEMPT OF THIS COURT, AND A CIVIL ARREST WARRANT MAY BE
15 ISSUED. A CIVIL ARREST WARRANT IS AN ORDER DIRECTING ANY
16 POLICE OFFICER IN ARIZONA TO ARREST YOU AND BRING YOU
17 BEFORE THIS COURT FOR FUTURE PROCEEDINGS.

18 **Your Duties In Responding To This Subpoena**

19 You have the duty to produce the documents requested as they are kept by
20 you in the usual course of business, or you may organize the documents and label
21 them to correspond with the categories set forth in this subpoena. See Rule 45(d)(1)
22 of the Arizona Rules of Civil Procedure.

23 If this subpoena asks you to produce and permit inspection and copying of
24 designated books, papers, documents, tangible things, or the inspection of premises,
25 you need not appear to produce the items unless the subpoena states that you must
26 appear for a deposition, hearing or trial. See Rule 45(c)(2)(A) of the Arizona Rules
of Civil Procedure.

27 **Your Right To Object**

28 The party or attorney serving the subpoena has a duty to take reasonable steps
29 to avoid imposing an undue burden or expense on you. The Superior Court enforces
30 this duty and may impose sanctions upon the party or attorney serving the subpoena
31 if this duty is breached. See Rule 45(c)(1) of the Arizona Rules of Civil Procedure.

32 You may object to this subpoena if you feel that you should not be required to
33 respond to the request(s) made. Any objection to this subpoena must be made within
34 14 days after it is served upon you, or before the time specified for compliance, by
35 providing a written objection to the party or attorney serving the subpoena. See Rule
36 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

1 If you object because you claim the information requested is privileged or
2 subject to protection as trial preparation material, you must express the objection
3 clearly, and support each objection with a description of the nature of the document,
communication or item not produced so that the demanding party can contest the
claim. See Rule 45(d)(2) of the Arizona Rules of Civil Procedure.

4 If you object to the subpoena in writing you do not need to comply with the
5 subpoena until a court orders you to do so. It will be up to the party or attorney
6 serving the subpoena to seek an order from the court to compel you to provide the
documents or inspection requested, after providing notice to you. See Rule
45(c)(2)(B) of the Arizona Rules of Civil Procedure.

7 If you are not a party to the litigation, or an officer of a party, the court will
8 issue an order to protect you from any significant expense from the inspection and
copying commanded. See Rule 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

9 You may also file a motion in the superior court of the county in which the
10 case is pending to quash or modify the subpoena if the subpoena:

11 (i) does not provide a reasonable time for compliance;

12 (ii) requires a non-party or officer of a party to travel to a county different
13 from the county where the person resides or does business in person; or to travel to a
14 county different from where the subpoena was served; or to travel to a place farther
than 40 miles from the place of service; or to travel to a place different from any
other convenient place fixed by an order of a court, except that a subpoena for you to
appear and testify at trial can command you to travel from any place within the state;

15 (iii) requires the disclosure of privileged or protected information and no
16 waiver of exception applies; or

17 (iv) subjects you to an undue burden. See Rule 45(c)(3)(A) of the Arizona
Rules of Civil Procedure.

18 If this subpoena:

19 (i) requires disclosure of a trade secret or other confidential research,
20 development, or commercial trade information; or

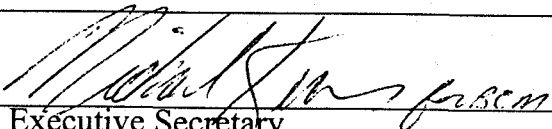
21 (ii) requires disclosure of an unretained expert's opinion or information not
describing specific event or occurrences in dispute and resulting from the expert's
22 study made not at the request of any party; or

23 (iii) requires a person who is not a party or an officer of a party to incur
substantial travel expense.

24 The court may either quash or modify the subpoena, or the court may order to
25 appear or produce documents only upon specified conditions, if the party who served
the subpoena shows a substantial need for the testimony or material that cannot be
otherwise met without undue hardship and assures that you will be reasonably
26 compensated. See Rule 45(c)(3)(B) of the Arizona Rules of Civil Procedure.

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SIGNED AND SEALED this date: 3/8/02

By: 
Executive Secretary

1 **ORIGINAL +10 copies of the foregoing**
2 **filed this 5th day of March, 2002 with:**

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 West Washington
6 Phoenix, Arizona 85007

6 **COPY delivered this day to:**

7 Lyn Farmer
8 Chief Administrative Law Judge
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11 Phoenix, Arizona 85007

11 Chris Kempley
12 Chief Counsel
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15 Ernest Johnson
16 Utilities Director
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18 1200 West Washington
19 Phoenix, Arizona 85007

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